

PATENT
512425-2070

REMARKS

Reconsideration and withdrawal of the claim rejections are requested in view of the remarks herein.

Examiner Morillo is thanked for her indication of allowable subject matter (claims 46 and 47) and for the courtesies extended during the telephone conversation of 30 December 2004 with Howard C. Lee (Reg. No. 48,104) where she helpfully suggested an amendment with regard to the inclusion of a die-casting step. Claim 1 has been amended in accordance with the Examiner's suggestions. Support for these amendments can be found, e.g., on page 5, line 19 through page 6, line 6. Claim 23 has been amended to be dependent upon claim 1.

Claims 1-4, 7, 9, 14, 15, 24-26, 29, 46 and 47 are pending. Claims 19-23 are withdrawn.

No new matter has been added.

With regard to withdrawn claims 19-23, which are each ultimately dependent on claim 1, it is respectfully requested that these claims be rejoined should the subject matter of claim 1 be allowed (see MPEP 809.03 (Linking claims) which states in part "The most common types of linking claims which, if allowed, act to prevent restriction between invention that can otherwise be divisible, are...(B) a claim to the necessary process of making a product linking proper process and product claims." See also MPEP 809.04 (Retention of Claims to Non-elected Invention) which states in part "If a linking claim is allowed, ...he or she must examine the claims to the nonelected inventions that are linked to the elected invention by such allowed linking claim.")

PATENT
512425-2070

THE REJECTIONS UNDER 35 U.S.C. 103(a) HAVE BEEN OVERCOME

Claims 1-4, 7, 9, 14, 15, 24-26 and 29 were rejected as being obvious over JP 09-241780 in view of Knott (U.S. Patent 5,972,285).

The arguments previously presented are to be considered to be here as it is still believed that the rejected claims without the above amendments could have been allowed on the merits. The applicants reserve the right to pursue the claims present at the time before the final rejection in a divisional application.

However, in light of the above amendments, attention is called to the Examiner's "Response to Amendment" section of the final rejection wherein the bases for maintaining her rejection was that "[t]he claim does not mention a die casting step" (see page 4, last line of the final rejection dated 3 November 2004) and that "...it is through the process of die casting that pressure is applied; a die casting machine/die cavity may have the capability of being pressurized, but it is not implicitly pressurized." (see page 5, lines 2-4, *id.*).

These bases for maintaining the rejection no longer apply as claim 1 does recite a die-casting step and this die-casting step recites that the aluminum or aluminum alloy metal melt is introduced at high pressure as part of the die casting step. Given that there were no other substantive counterarguments with regard to the combination of the '780 reference and Knott, this rejection may be withdrawn on this basis alone.

Additionally, with regard to the Examiner's argument that evidence must be in the form of an oath or declaration, this is only true if the evidence is not already present in the specification. However, the specification clearly states on page 7, last two lines that "The component had a mass of only 40% compared to conventional die castings." Evaluating evidence of secondary considerations is one of the four factual inquiries enunciated in *Graham v.*

PATENT
512425-2070

John Deere, 383 U.S. 1, 148 USPQ 469 (1966) that is the standard of patentability which is to be applied to each and every case (see MPEP 2141, page 2100-120 (Rev. 2, May 2004)). At this point in time, there is no countervailing evidence from the Examiner as to why the applicants invention does not have a structure superior to Knoll.

It is submitted that the claimed invention is not obvious over the cited references. Therefore, reconsideration and withdrawal of the 35 U.S.C. §103 rejection are respectfully requested.

THE DOUBLE PATENTING REJECTION HAS BEEN RENDERED MOOT

Claims 1-4, 7, 9, 14, 15, 24-26 and 29 were provisionally rejected as being unpatentable over claims 1, 2, 4, 5, 8-13 and 15-20 of co-pending application SN: 10/162,978. This rejection has been rendered moot by the terminal disclaimer over the '978 application which is being filed with this response.

PATENT
512425-2070

CONCLUSION

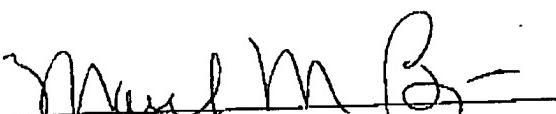
Applicants believe that the application is in condition for allowance, and favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. Alternatively, consideration and entry of this paper are requested, as it places this application into better condition for purposes of appeal.

REQUEST FOR INTERVIEW

If any issue remains as an impediment to allowance, a further interview with the Examiner and SPE are respectfully requested; and, the Office Action is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:


Marilyn M. Brogan
Reg. No. 31,233

Howard C. Lee
Reg. No. 48,104
Tel (212) 588-0800
Fax (212) 588-0500